

6. The two complaints were filed to alleviate internal law firm conflicts of interest that may exist with the defendants in the two matters.

7. The same attorney that represents all three Defendants in the Howard Matter, also represents six (6) Defendants in this matter.

8. The same factual allegations and questions of law are at the heart of both cases, namely whether the Defendants are liable to Synovus Bank under the terms of related Loan Documents.

9. The same witnesses will be identified in, and will present testimony, in both matters. The witnesses involved would also incur additional and undue expense if these actions are not consolidated in a timely manner.

10. Furthermore, any decisions reached by the Court in these two actions should be answered identically in each case. The complaints involve the determination of common questions of law and fact, thus there is an inherent risk of inconsistent adjudications of the claims asserted therein. No party would be prejudiced by the consolidation of these actions, and, in fact, all parties would benefit from their consolidation at the earliest possible stage.

11. Additionally, duplication of discovery, briefing motions and responses, and even trials on the merits will lead to excess costs and an increased burden on all parties.

12. In addition, judicial resources would be saved by consolidating the cases for purposes of scheduling, discovery, motions and trials.

13. Counsel for Synovus in the Howard Matter consents to this Motion and is served on this Motion.

14. Counsel for all three Defendants in the Howard Matter also consents to this Motion and is served on this Motion.

15. Accordingly, because the Synovus Cases involve common questions of law and fact, and the defendants consent to this Motion, consolidation is warranted.

**WHEREFORE**, the undersigned respectfully requests this Honorable Court to issue an Order Consolidating the case styled *Synovus Bank v. Alan Howard, et al.*, CV-2010-902186 also pending in the Circuit Court of Jefferson County, Alabama with the above styled case.

/s/ Joe A. Joseph  
Joe A. Joseph (JOS004)  
Damon P. Denney (DEN019)  
Clifton C. Mosteller (MOS035)  
Burr & Forman LLP  
420 North 20th Street  
3400 Wachovia Tower  
Birmingham, Alabama 35203  
Attorneys for SYNOVUS BANK

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document on the following by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by placing the same in postage-prepaid U.S. First Class Mail, by hand delivery, by fax, or by email on this the 22nd day of July 2010:

Lee R. Benton  
Amy Hazelton  
(counsel for Defendants in the  
Howard Matter)  
and counsel for Keith Rotenberry,  
Lewis M. Lockhart, Richard D.  
Rowe, Nikolaos Manakides, Rickey  
L. Lockhart, William R. Ivey,  
Michael W. McCain  
Benton & Centeno, L.L.P.  
2019 3rd Ave N  
Birmingham, Alabama 35203

Plash Island Resort LLC  
c/o Joseph F Yarborough, Jr.  
396 West 23rd Avenue  
Gulf Shores, AL 36542

Christopher Andrew Yarborough  
345 Olde Park Court  
Gulf Shores, AL 36542-5714

R. Bruce Barze, Jr.  
Amy Davis Adams  
counsel for The Estate of Gary L.  
Marcum, Sr. and Marcum  
Development, L.L.C.  
Balch & Bingham LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203

Brian R. Walding (counsel for  
Synovus in the Howard Matter)  
Walding LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
[bwalding@waldinglaw.com](mailto:bwalding@waldinglaw.com)

/s/ Joe A. Joseph  
OF COUNSEL

<b>STATE OF ALABAMA</b> Unified Judicial System 01-JEFFERSON - BIRMINGHAM		Revised 3/5/08 <input type="checkbox"/> District Court <input checked="" type="checkbox"/> Circuit Court	Case ELECTRONICALLY FILED 7/22/2010 9:37 AM CV-2010-902180.00 CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA ANNE-MARIE ADAMS, CLERK
SYNOVUS BANK V. PLASH ISLAND RESORT LLC ET AL		<b>CIVIL MOTION COVER SHEET</b> Name of Filing Party: C001 - SYNOVUS BANK	
Name, Address, and Telephone No. of Attorney or Party, if Not Represented: CLIFTON C. MOSTELLER 41 WEST I-65 SERVICE ROAD NORTH SUITE 400 MOBILE, AL 36608 Attorney Bar No.: MOS035		<input type="checkbox"/> Oral Arguments Requested	
<b>TYPE OF MOTION</b>			
<b>Motions Requiring Fee</b>		<b>Motions Not Requiring Fee</b>	
<input type="checkbox"/> Default Judgment (\$50.00) Joinder in Other Party's Dispositive Motion (i.e. <input type="checkbox"/> Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment (\$50.00) Renewed Dispositive Motion (Summary Judgment, <input type="checkbox"/> Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment pursuant to Rule 56 (\$50.00) <input type="checkbox"/> Motion to Intervene (\$297.00) <input type="checkbox"/> Other _____ pursuant to Rule _____ (\$50.00)  *Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees. <input type="checkbox"/> Local Court Costs \$ _____		<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input checked="" type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during Trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input type="checkbox"/> Other _____ pursuant to Rule _____ (Subject to Filing Fee)	
Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees) <input type="checkbox"/>		Date: 7/22/2010 9:35:30 AM	
		Signature of Attorney or Party: /s/ CLIFTON C. MOSTELLER	

\*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\*Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: CLIFTON C. MOSTELLER  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

**C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION**

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203**

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
396 WEST 23RD AVENUE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

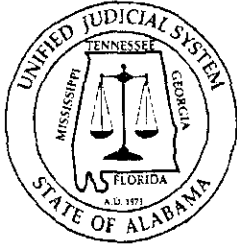
**C001 SYNOVUS BANK**  
**MOTION FOR CONSOLIDATION**

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: YARBOROUGH CHRISTOPHER ANDREW (PRO SE)  
345 OLDE PARK COURT  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

**C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION**

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

**C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION**

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203**

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

**C001 SYNOVUS BANK**

**MOTION FOR CONSOLIDATION**

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

C001 SYNOVUS BANK  
MOTION FOR CONSOLIDATION

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/22/2010 9:37:10 AM

C001 SYNOVUS BANK

MOTION FOR CONSOLIDATION

[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 7/22/2010 9:37:10 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov

State of Alabama Unified Judicial System Form C-34 Rev 6/88	<b>SUMMONS</b> <b>- CIVIL -</b>	<b>Case Number:</b> 01-CV-2010-902180.00
---	------------------------------------	---

**IN THE CIVIL COURT OF JEFFERSON, ALABAMA**  
**SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL**

CHRISTOPHER ANDRE YARBOROUGH, 27384 MAULDIN LANE UNIT # PH-3, ORANGE BEACH, AL 36561

**NOTICE TO**

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY CLIFTON C. MOSTELLER

WHOSE ADDRESS IS 41 WEST I-65 SERVICE ROAD NORTH SUITE 400, MOBILE, AL 36608

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSONNEL AUTHORIZED by the Alabama Rules of the Civil Procedure:

☐ You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant  
☒ Service by certified mail of this summons is initiated upon the written request of SYNOVUS BANK  
 pursuant to the Alabama Rules of the Civil Procedure

7/22/2010 2:28:49 PM  
 Date

/s ANNE-MARIE ADAMS  
 Clerk/Register

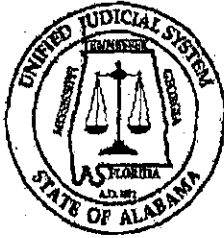
By \_\_\_\_\_

☒ Certified mail is hereby requested /s CLIFTON C. MOSTELLER  
 Plaintiff's/Attorney's Signature

**RETURN ON SERVICE:**  
☐ Return receipt of certified mail received in this office on \_\_\_\_\_  
☐ I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_  
 \_\_\_\_\_ in \_\_\_\_\_ County, Alabama on \_\_\_\_\_

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Server's Signature



## NOTICE TO CLERK

REQUIREMENTS FOR COMPLETING SERVICE BY  
CERTIFIED MAIL

JUL 23 2010

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL

01-CV-2010-902180.00

To: CLERK BIRMINGHAM  
clerk.birmingham@alacourt.gov

TOTAL POSTAGE PAID FOR CERTIFIED MAIL: \$10.99

Parties to be served by Certified Mail - Return Receipt Requested

Parties to be served by Certified Mail - Restricted Delivery - Return Receipt Requested

CHRISTOPHER ANDRE YARBOROUGH

27384 MAULDIN LANE

UNIT # PH-3

ORANGE BEACH, AL 36561

Postage: \$10.99

*Dg Alias*

7009 1680 0001 9564 5892



ELECTRONICALLY FILED  
7/26/2010 12:06 PM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION

SYNOVUS BANK,	)	
Plaintiffs,	)	
	)	
V.	)	CV-2010-902180.00-NGS
	)	
PLASH ISLAND RESORT LLC,	)	
ROTENBERRY KEITH,	)	
LOCKHART LEWIS M.,	)	
ROWE RICHARD D. ET AL,	)	
Defendants.	)	

ORDER

The Plaintiff's Motion to Consolidate Related Cases is hereby set for a hearing before the undersigned on **August 30, 2010** at **9:45 a.m.**

**DONE** this 26<sup>th</sup> day of July, 2010.

/s/ NICOLE GORDON STILL  
CIRCUIT JUDGE





## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

**ANNE-MARIE ADAMS**  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

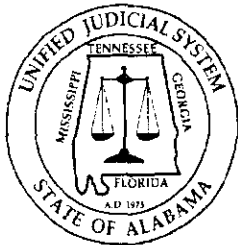
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
396 WEST 23RD AVENUE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: YARBOROUGH CHRISTOPHER ANDREW (PRO SE)  
27384 MAULDIN LANE  
UNIT # PH-3  
ORANGE BEACH, AL 36561

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 7/26/2010 12:06:51 PM

Notice Date: 7/26/2010 12:06:51 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



State of Alabama  
Unified Judicial System  
Form C-34 Rev 6/88

**SUMMONS**  
**- CIVIL -**

**Case Number:**  
01-CV-2010-902180.00

**IN THE CIVIL COURT OF JEFFERSON, ALABAMA**  
**SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL**

PLASH ISLAND RESORT LLC, C/O JOSEPH F YARBOROUGH 374 WEST CANAL DRIVE, GULF SHORES, AL 36542

**NOTICE TO**

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY CLIFTON C. MOSTELLER

WHOSE ADDRESS IS 41 WEST I-65 SERVICE ROAD NORTH SUITE 400, MOBILE, AL 36608

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSONNEL AUTHORIZED by the Alabama Rules of the Civil Procedure.

☐ You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant

☒ Service by certified mail of this summons is initiated upon the written request of SYNOVUS BANK  
pursuant to the Alabama Rules of the Civil Procedure

7/26/2010 4:48:45 PM

Date

/s ANNE-MARIE ADAMS

Clerk/Register

By

☒ Certified mail is hereby requested

/s CLIFTON C. MOSTELLER

Plaintiffs/Attorney's Signature

**RETURN ON SERVICE:**

☐ Return receipt of certified mail received in this office on \_\_\_\_\_

☐ I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_

\_\_\_\_\_ in \_\_\_\_\_ County, Alabama on \_\_\_\_\_

Date

Server's Signature



## NOTICE TO CLERK

REQUIREMENTS FOR COMPLETING SERVICE BY  
CERTIFIED MAIL

JUL 28 2010

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL

01-CV-2010-902180.00

To: CLERK BIRMINGHAM  
clerk.birmingham@alacourt.gov

TOTAL POSTAGE PAID FOR CERTIFIED MAIL: \$6.49

Parties to be served by Certified Mail - Return Receipt Requested

PLASH ISLAND RESORT LLC  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

DI Alias

Postage: \$6.49

7009 1680 0001 9564 6127

Parties to be served by Certified Mail - Restricted Delivery - Return Receipt Requested

## SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Christopher Andre  
Yarbrough  
27384 Mauldin Lane  
Unit # PH-3  
Orange, Beach, AL 36561

## 2. Article Number

(Transfer from service label)

7009 1680 0001 9564 5892

PS Form 3811, February 2004

Domestic Return Receipt

102505-02-01-1B40

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X

☐ Agent☐ Addressee

## B. Received by (Printed Name)

Andy Yarbrough

## C. Date of Delivery

## D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

D9  
CV10-902180-1 Alias

## 3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☒ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☒ Yes



UNITED STATES POSTAL SERVICE  
MOBILE AL 366

26 JUL 2010 PM 11



• Sender: Please print your name, address, and ZIP+4® OFFICE

JUL 30 2010

ANNE-MARIE ADAMS  
Clerk

716 RICHARD  
BIRMINGHAM, AL 352

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Plash Island Resort LLC  
 c/o Joseph F. Yarbrough  
 374 West Canal Drive  
 Gulf Shores, AL  
 36542

## 2. Article Number

(Transfer from service label)

7009 1680 0001 9564 6127

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X

☐ Agent☐ Addressee

## B. Received by (Printed Name)

JOSEPH F. YARBROUGH

## C. Date of Delivery

D. Is delivery address different from item 1? ☒ Yes

If YES, enter delivery address below:

☐ No

D1

CVID-902180-Alice

## 3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☐ Yes



UNITED STATES POSTAL SERVICE  
MOBILE AL 365



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-40

NO AUG 30 2010 11 11

• Sender: Please print your name, address, and ZIP+4 in this box •

FILED IN OFFICE

AUG 24 2010

ANNE-MARIE ADAMS  
ROOM 400  
710 RICHARD ARNOLD BLVD SOUTH  
BIRMINGHAM, AL 35203

Clerk





ELECTRONICALLY FILED

8/23/2010 10:34 AM

CV-2010-902180.00

CIRCUIT COURT OF

JEFFERSON COUNTY, ALABAMA

ANNE-MARIE ADAMS, CLERK

## IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK,

Plaintiff,

v.

CV-2010-902180.00

PLASH ISLAND RESORT, LLC, an

Alabama Limited Liability Company,

KEITH ROTENBERRY, an Individual,

LEWIS M. LOCKHART, an Individual,

RICHARD D. ROWE, an Individual,

NIKOLAOS MANAKIDES, an Individual,

RICKEY L. LOCKHART, an Individual,

WILLIAM R. IVEY, an Individual,

MICHAEL W. MCCAIN, an Individual,

CHRISTOPHER ANDREW

YARBOROUGH, an Individual, DONNA

S. MARCRUM, As Executrix For The

ESTATE OF GARY L. MARCRUM SR.,

and MARCRUM DEVELOPMENT,

L.L.C., an Alabama Limited Liability Company.)

Defendants.

NOTICE OF APPEARANCE

Comes now Amy M. Hazelton of the firm Benton and Centeno, LLP and makes known her entry of appearance as additional counsel for the Defendant, Christopher Andrew Yarborough.

/s/ Amy M. Hazelton

Lee R. Benton (BEN008)

Amy M. Hazelton (MAY034)

OF COUNSEL:

BENTON &amp; CENTENO, LLP

2019 Third Avenue North

Birmingham, Alabama 35203

(205) 278-8000 Telephone

(205) 278-8008 Facsimile

[lbenton@bcattys.com](mailto:lbenton@bcattys.com)[ahazelton@bcattys.com](mailto:ahazelton@bcattys.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Notice by electronic filing and/or by first class mail to the following on this the 23<sup>rd</sup> day of August, 2010:

Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
BURR & FORMAN, LLP  
420 North 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
*Counsel for Plaintiff*

Brian R. Walding, Esq.  
WALDING LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
*Counsel for Plaintiff*

R. Bruce Barze, Jr., Esq.  
Amy Davis Adams, Esq.  
BALCH & BINGHAM, LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
*Counsel for The Estate of Gary L. Marcrum, Sr.  
and Marcrum Development, L.L.C.*

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23<sup>rd</sup> Avenue  
Gulf Shores, Alabama 36542

/s/ Amy M. Hazelton  
Of Counsel





## AlaFile E-Notice

01-CV-2010-902180.00

To: AMY MAY HAZELTON  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: YARBOROUGH CHRISTOPHER ANDREW (PRO SE)  
27384 MAULDIN LANE  
UNIT # PH-3  
ORANGE BEACH, AL 36561

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:35:35 AM

Notice Date: 8/23/2010 10:35:35 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



ELECTRONICALLY FILED  
8/23/2010 10:36 AM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

<b>SYNOVUS BANK,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CV-2010-902180.00</b>
	)	
<b>PLASH ISLAND RESORT, LLC, an</b>	)	
<b>Alabama Limited Liability Company,</b>	)	
<b>KEITH ROTENBERRY, an Individual,</b>	)	
<b>LEWIS M. LOCKHART, an Individual,</b>	)	
<b>RICHARD D. ROWE, an Individual,</b>	)	
<b>NIKOLAOS MANAKIDES, an Individual,</b>	)	
<b>RICKEY L. LOCKHART, an Individual,</b>	)	
<b>WILLIAM R. IVEY, an Individual,</b>	)	
<b>MICHAEL W. MCCAIN, an Individual,</b>	)	
<b>CHRISTOPHER ANDREW</b>	)	
<b>YARBOROUGH, an Individual, DONNA</b>	)	
<b>S. MARCRUM, As Executrix For The</b>	)	
<b>ESTATE OF GARY L. MARCRUM SR.,</b>	)	
<b>and MARCRUM DEVELOPMENT,</b>	)	
<b>L.L.C., an Alabama Limited Liability Company.</b>	)	
	)	
<b>Defendants.</b>	)	

**NOTICE OF APPEARANCE**

Comes now Lee R. Benton of the firm Benton and Centeno, LLP and makes known his entry of appearance as counsel for the Defendant, Christopher Andrew Yarborough.

/s/ Lee R. Benton  
Lee R. Benton (BEN008)  
Amy M. Hazelton (MAY034)

OF COUNSEL:

BENTON & CENTENO, LLP  
2019 Third Avenue North  
Birmingham, Alabama 35203  
(205) 278-8000 Telephone  
(205) 278-8008 Facsimile  
[lbenton@bcattys.com](mailto:lbenton@bcattys.com)  
[ahazelton@bcattys.com](mailto:ahazelton@bcattys.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Notice by electronic filing and/or by first class mail to the following on this the 23<sup>rd</sup> day of August, 2010:

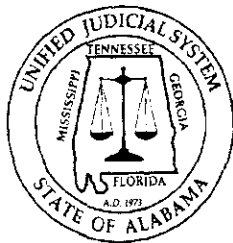
Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
BURR & FORMAN, LLP  
420 North 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
*Counsel for Plaintiff*

Brian R. Walding, Esq.  
WALDING LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
*Counsel for Plaintiff*

R. Bruce Barze, Jr., Esq.  
Amy Davis Adams, Esq.  
BALCH & BINGHAM, LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
*Counsel for The Estate of Gary L. Marcum, Sr.  
and Marcum Development, L.L.C.*

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23<sup>rd</sup> Avenue  
Gulf Shores, Alabama 36542

/s/ Lee R. Benton  
\_\_\_\_\_  
Of Counsel



## AlaFile E-Notice

01-CV-2010-902180.00

To: LEE R. BENTON  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL

01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following NOTICE OF APPEARANCE was FILED on 8/23/2010 10:37:43 AM

Notice Date: 8/23/2010 10:37:43 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



ELECTRONICALLY FILED  
8/31/2010 11:12 AM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION**

SYNOVUS BANK,	)	
Plaintiffs,	)	
	)	
V.	)	CV-2010-902180.00-NGS
	)	
PLASH ISLAND RESORT LLC,	)	
ROTENBERRY KEITH,	)	
LOCKHART LEWIS M.,	)	
ROWE RICHARD D. ET AL,	)	
Defendants.	)	

**ORDER**

The Plaintiff's Motion to Consolidate Related Cases is hereby **GRANTED**. The Clerk of the Court is hereby directed to consolidate civil action number 2010-902186-GWN with the above-styled cause (CV-2010-902180-NGS).

**DONE this 31<sup>st</sup> day of August, 2010.**

/s/ NICOLE GORDON STILL  
CIRCUIT JUDGE



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

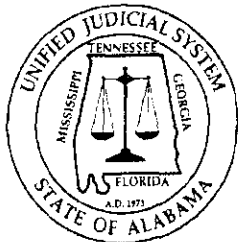
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

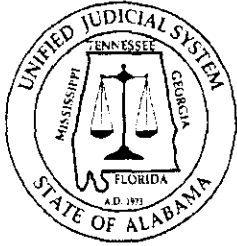
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:12:32 AM

Notice Date: 8/31/2010 11:12:32 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

*The following matter was FILED on 8/31/2010 11:12:32 AM*

Notice Date: 8/31/2010 11:12:32 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



ELECTRONICALLY FILED  
8/31/2010 11:48 AM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION**

SYNOVUS BANK,	)	
Plaintiffs,	)	
	)	
V.	)	Case No.: CV-2010-902180.00
	)	(Consolidated with CV-2010-902186)
PLASH ISLAND RESORT LLC,	)	
ROTENBERRY KEITH,	)	
LOCKHART LEWIS M.,	)	
ROWE RICHARD D. ET AL,	)	
Defendants.	)	

**SCHEDULING ORDER AND TRIAL SETTING**

It is Ordered as follows:

1. This case is assigned to the **Standard Track**.
2. **The case is set for a bench trial on April 11, 2011, at 9:00 a.m. in Courtroom 350, Jefferson County Courthouse, Birmingham. The provisions of Exhibit A attached hereto apply to the trial of this action.**

This case **shall** be disposed of on or before the trial date, unless the court grants a timely filed Motion for Continuance for good cause shown. The parties are advised that the fact that the trial setting is a first setting, that the parties have agreed to a continuance, that discovery has not been completed, or other such reasons will **not** be considered "good cause."

3. All pending written discovery shall be responded to **within 21 days**.
4. All parties shall be noticed for their depositions so that the depositions may take place and be completed no later than **February 14, 2011**. All other fact discovery, including all depositions, shall be initiated in time to be completed on or before **February 7, 2011, the discovery cut-off date**.
5. Plaintiff(s) shall provide the names and Rule 26 information of any expert witness(es) expected to be used at the trial of this case on or before **October 25, 2010**. Said witness shall be made available for deposition by Defendant(s) on or before **December 6, 2010**.
6. Defendant(s) shall provide the names and Rule 26 information of any expert witness(es) expected to be used at the trial of this case on or before **January 3, 2011**. Said witness shall be made available for deposition by Plaintiff(s) on or before **February 7,**

2011.

7. Any amendments to add parties to the pleadings must be filed no later than **42 days from the date of this Order**. Other amendments to pleadings require leave of Court.

8. The provisions of Exhibit B attached hereto apply to motions *filed in this action*. Motions for Summary Judgment or other dispositive motions must be filed on or before **February 28, 2011**.

9. A Status/Settlement/Pre-Trial Conference may be set at the request of either party. All lawyers, parties, or other persons with binding settlement authority shall be present at any Settlement Conference, and the parties shall provide the Court with a statement of impediments to settlement at the outset of the conference.

10. The *Birmingham Differential Case Management Plan* is incorporated into this Scheduling Order by reference. A copy of the *Birmingham Differential Case Management Plan* can be found at <http://10jc.alacourt.gov>.

**DONE this 31<sup>st</sup> day of August, 2010.**

/s/ NICOLE GORDON STILL  
CIRCUIT JUDGE

**EXHIBIT A**

*The following provisions shall apply to the trial of this action:*

1. The parties are to exchange the following items so that each party has received the other's items no later than **14 calendar days** before the trial of this case:

(A) Itemizations of all damages claimed, showing the amount and, if applicable, the methodology used to compute all such damages.

(B) Witness lists stating the names and addresses of individuals who are expected to testify at trial. While identification of an individual does not obligate the party to call that individual as a witness, any individual not identified will be precluded from testifying at trial without leave of Court, which will be granted only for good cause shown. The obligations of this sub-paragraph do not pertain to rebuttal witnesses the identities of whom cannot reasonably be foreseen ahead of trial.

(C) Exhibit lists identifying or describing all writings, recordings, and other tangible exhibits that the parties may use at trial. Documents so identified are to be made readily available to any party requesting the opportunity to review and copy. Any exhibit not identified will not be admitted into evidence without leave of Court, which will be granted only for good cause shown.

2. Unless objections are filed and served no later than **7 calendar days** before trial, each party shall be deemed to have no objection to the competence of every individual identified in witness lists to testify and to the authenticity and admissibility of every document and other thing identified in the exhibit lists. Should any objection be filed and served, the party raising it shall state the basis of the objection.

3. In jury cases, no later than **7 calendar days** before trial, the parties shall file and serve any motions *in limine*. Further, by **7 calendar days** before trial, any proposed jury instructions and verdict forms shall be submitted to the Court. If requested instructions comport with *Alabama Pattern Jury Instruction* charges, the submitting party may simply file a list of the requested APJI charges without setting out the full text of each such charge.

4. The parties are to provide "courtesy copies" of all papers identified in paragraphs 1-3 above by delivering them to the chambers of the undersigned when the originals are filed with the Clerk of the Court. Parties may submit "trial briefs," although such briefs are not required. Any such brief should, in fact, be truly brief.

5. The parties are encouraged to consider using, and preparing, written stipulations of fact, so that a jury may focus on the actual factual dispute remaining for adjudication by trial.

6. All exhibits, properly identified and without objection (or with objections overruled), are to be pre-marked and will be admitted at the beginning of trial.

7. Counsel are reminded that a party desiring a court reporter in attendance at the trial of this cause must specifically request a reporter by advising the Court's chambers no later than **4 days before the trial**. The party making such request must assume, and by this order agrees to assume, the responsibility for payment directly to the court reporter for all costs and expenses attendant to the reporter's services at trial, in the absence of an agreement by the parties to share this financial responsibility jointly.

**EXHIBIT B**

**MOTION PROVISIONS**

*The following provisions apply to motions filed in this action:*

1. If a hearing is requested, the date and time for hearing all motions shall be obtained from the Judge's office **before** filing such motions. Notice of the hearing date and time shall be prominently shown on the first page of the motion, in the style of the case underneath the civil action number.
2. Paper copies of any materials in support of motions, including briefs, in excess of 10 pages must be provided to the Judge's chambers. Courtesy copies shall be delivered no later than **2 business days** before the hearing.
3. No materials electronically filed less than **3 calendar days** prior to a hearing date will be considered by the Court. No material hand delivered to the Judge's office less than **2 calendar days** prior to the hearing date will be considered by the Court.
4. Proposed orders shall not be filed with or attached to motions, but shall be submitted to the Court's designated email address in the format preferred by the individual judge. If the lines below are blank or if the email address is no longer active, the pertinent information may be obtained by calling the Judge's office.

**Email: [jean.speer@alacourt.gov](mailto:jean.speer@alacourt.gov)**

**Preferred format: Word**

5. The Court encourages the parties to engage in voluntary mediation at any time so long as the mediation does not result in a delay of any dates set in the Scheduling Order. Any motion for mandatory mediation must be filed within **42 days** of this order. The State of Alabama Department of Industrial Relations has established a program to encourage mediation of workers' compensation claims by making an Ombudsman available for mediation at no cost to the parties. However, the parties should take note that, because of the volume of mediation requests for the Ombudsman program, it may take several weeks to schedule mediation. If mediation can only be scheduled after the trial date for this matter set out below, this case will not be continued or delayed because of lack of mediation.
6. No pleading or motion shall be filed by facsimile. No copies shall be sent to the Judge by facsimile unless specifically requested.

**EXHIBIT C**

**THE PARTIES SHOULD REFER TO THE SCHEDULING ORDER FOR THE TRACK ASSIGNMENT AND ALL DISCOVERY DEADLINES.**

**EXPEDITED TRACK**

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery limits apply to these cases:

No depositions will be allowed absent order of the court. Additionally, a limit of 50 single-part paper discovery request items will be allowed for each party whether involving interrogatories, request for production, or request for admission. All discovery must comply with deadlines established by the Court's Scheduling Order.

**STANDARD TRACK**

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery limits apply to these cases:

Discovery will be limited to six depositions per party. Additionally, each party will be limited to 100 single-part discovery request items whether involving interrogatories, requests for production, or requests for admission. All discovery must comply with the deadlines established by the Court's Scheduling Order. A party may request relief from the discovery limitations in standard track cases.

**STANDARD AND COMPLEX TRACK**

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery provisions apply to these cases:

In the event there is a dispute over the order in which depositions are taken, a defendant issuing a deposition notice contemporaneously with the defendant's initial appearance shall be entitled to conduct a party plaintiff's deposition first. Otherwise, the party who issued a deposition notice first should be permitted to conduct that deposition prior to any other depositions being taken. The attorneys are encouraged to work among themselves, without the need for court intervention, if changes in deposition scheduling become necessary.

With respect to Rule 30(b)(6) of the Alabama Rules of Civil Procedure, if corporate representatives are not located within the State of Alabama, a party being asked to tender such representatives for deposition will be expected to produce only one such representative in Jefferson County, Alabama absent agreement of the parties to the contrary, or unless otherwise ordered. Any further depositions or additional corporate representatives would be expected to be held at the deponents' location. Should the party for whom the representative will be testifying reasonably question the court's personal jurisdiction, this party may object to producing a witness in Jefferson County until the issue is resolved.







## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

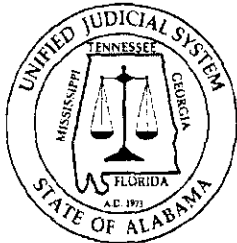
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

**ANNE-MARIE ADAMS**  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

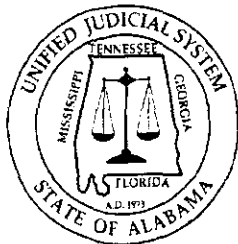
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 8/31/2010 11:48:13 AM

Notice Date: 8/31/2010 11:48:13 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





ELECTRONICALLY FILED  
9/1/2010 11:15 AM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**SYNOVUS BANK**

**Plaintiff,**

**v.**

**PLASH ISLAND RESORT, LLC, et. al.**

**Defendants.**

Case No. 2010-902180, previously  
consolidated with CV-2010-902186-GWN

**REQUEST FOR ASSIGNMENT TO  
THE COMMERCIAL LITIGATION DOCKET**

By Order of this Court on August 31, 2010, civil action number 2010-902186-GWN was consolidated into the above style matter. Although all defendants in the action have been served, filed initial responsive pleadings, or otherwise appeared in this matter, no other pleadings have been filed nor has any party engaged in discovery. In accordance with the Tenth Judicial Circuit Court of Alabama's Administrative Order No. 2009-23 which establishes this Court's commercial litigation docket, I hereby request that this case be assigned to the Commercial Litigation Docket (CLD), and hereby affirm that this case meets the requirements of such assignment.

DATED this the 1st day of September, 2010.

/s/ Clifton C. Mosteller

Joe A. Joseph (JOS004)  
Clifton C. Mosteller (MOS035)  
Burr & Forman LLP  
420 North 20th Street  
3400 Wachovia Tower  
Birmingham, Alabama 35203  
Attorneys for SYNOVUS BANK

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document on the following by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by placing the same in postage-prepaid U.S. First Class Mail, by hand delivery, by fax, or by email on this the 1st day of September 2010:

Lee R. Benton  
Amy Hazelton  
2019 3rd Ave N  
Birmingham, Alabama 35203

R. Bruce Barze, Jr.  
Amy Davis Adams  
counsel for The Estate of Gary  
L. Marcrum, Sr. and Marcrum  
Development, L.L.C.  
Balch & Bingham LLP  
1901 Sixth Avenue North,  
Suite 1500  
Birmingham, Alabama 35203

Plash Island Resort LLC  
c/o Joseph F Yarborough, Jr.  
396 West 23rd Avenue  
Gulf Shores, AL 36542

Brian R. Walding  
Walding LLC  
505 20<sup>th</sup> Street North, Suite  
620  
Birmingham, Alabama 35203  
[bwalding@waldinglaw.com](mailto:bwalding@waldinglaw.com)

/s/ Clifton C. Mosteller  
OF COUNSEL

<b>STATE OF ALABAMA</b> Unified Judicial System 01-JEFFERSON - BIRMINGHAM		Revised 3/5/08	Case ELECTRONICALLY FILED 9/1/2010 11:15 AM CV-2010-902180.00 CIRCUIT COURT OF BLOOMINGHON COUNTY, ALABAMA ANNE-MARIE ADAMS, CLERK	
<input type="checkbox"/> District Court <input checked="" type="checkbox"/> Circuit Court		CV2010902180.00		
SYNOVUS BANK V. PLASH ISLAND RESORT LLC ET AL		<b>CIVIL MOTION COVER SHEET</b> Name of Filing Party: C001 - SYNOVUS BANK		
Name, Address, and Telephone No. of Attorney or Party. If Not Represented CLIFTON C. MOSTELLER 41 WEST I-65 SERVICE ROAD NORTH SUITE 400 MOBILE, AL 36608 Attorney Bar No.: MOS035		<input type="checkbox"/> Oral Arguments Requested		
<b>TYPE OF MOTION</b>				
<b>Motions Requiring Fee</b>		<b>Motions Not Requiring Fee</b>		
<input type="checkbox"/> Default Judgment (\$50.00) Joinder in Other Party's Dispositive Motion (i.e. <input type="checkbox"/> Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment(\$50.00) Renewed Dispositive Motion(Summary Judgment, <input type="checkbox"/> Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment pursuant to Rule 56(\$50.00) <input type="checkbox"/> Motion to Intervene (\$297.00) <input type="checkbox"/> Other _____ pursuant to Rule _____ (\$50.00)  *Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees. <input type="checkbox"/> Local Court Costs \$ _____		<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during Trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input checked="" type="checkbox"/> Other _____ Request for Assignment to the pursuant to Rule _____ Commercial Litigation (Subject to Filing Fee) Circuit Court of _____ Alabama's Attorney or Party: Administrative Order No. 2009-23		
Check here if you have filed, or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees) <input type="checkbox"/>		Date: 9/1/2010 11:15:02 AM		

\*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\*Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: CLIFTON C. MOSTELLER  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

C001 SYNOVUS BANK  
REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

**C001 SYNOVUS BANK**  
**REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET**  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

C001 SYNOVUS BANK  
REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

**C001 SYNOVUS BANK**  
**REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET**  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

C001 SYNOVUS BANK

REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET

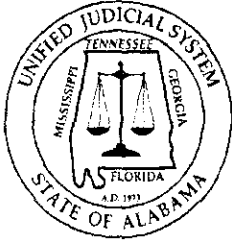
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

C001 SYNOVUS BANK  
REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

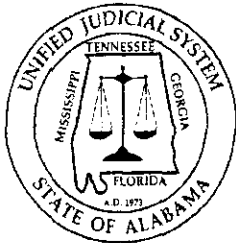
The following matter was FILED on 9/1/2010 11:15:31 AM

C001 SYNOVUS BANK  
REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/1/2010 11:15:31 AM

**C001 SYNOVUS BANK**  
**REQUEST FOR ASSIGNMENT TO THE COMMERCIAL LITIGATION DOCKET**  
[Attorney: MOSTELLER CLIFTON CHARLES]

Notice Date: 9/1/2010 11:15:31 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov

CV-2010-902180.00  
(consolidated with CV-2010-902186)

**OF COUNSEL:**  
**BENTON & CENTENO, LLP**  
 2019 Third Avenue North  
 Birmingham, Alabama 35203  
 Phone: 205-278-8000  
 Fax: 205-278-8008  
[lbenton@bcattys.com](mailto:lbenton@bcattys.com)  
[ahazelton@bcattys.com](mailto:ahazelton@bcattys.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Notice by electronic transmission and/or by first class mail to the following on this the 2<sup>nd</sup> day of September, 2010:

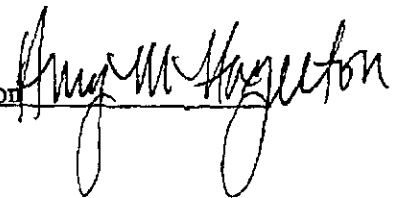
Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
BURR & FORMAN, LLP  
420 North 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
*Attorneys for Plaintiff*

Brian R. Walding, Esq.  
Donna Knotts Byrd, Esq.  
WALDING, LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
*Attorney for Plaintiff*

R. Bruce Barze, Jr.  
Amy Davis Adams  
Balch & Bingham, LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
*Attorneys for Donna S. Marcrum, executrix of the Estate of Gary L. Marcrum and Marcrum Development, LLC*

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23<sup>rd</sup> Avenue  
Gulf Shores, Alabama 36542

/s/ Amy M. Hazelton  
Of Counsel



- (a) Describe the nature of said privilege;
- (b) State the factual and legal basis upon which you contend that you are entitled

to withhold the information from the discovery process, and

- (c) State the identity of the person, firm, or corporation asserting said privilege.

If any and all documents identified herein are no longer in your possession, custody, or control because of destruction, loss or other reason, then do the following with respect to each and every such document:

- (a) Describe the nature of the document, (e.g., letter or memorandum);
- (b) State the date of the document;
- (c) Identify the person who sent and received the original and any and all copies of the document;
- (d) State in as much detail as possible the contents of said document;
- (e) State the manner and the date of disposition of the document, and any and all reasons therefor.

#### DEFINITIONS

A. As used herein, the term "you", "your", or "yourself" refers to the party to whom these requests are directed, each of its agents, representatives and attorneys, and each person acting or purporting to act on its behalf.

B. As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on behalf of the person in question.

C. As used herein, the term "person" means any natural individual, in any capacity whatsoever, or any entity or organization, including division, departments, and/or units therein, and shall include, but are not limited to, a public or private corporation, partnership, joint-venture,

voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

D. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes without limitation, the original of each copy, regardless of origin or location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order, form, receipt, financial statement, account entry, diary, calendar, telex, telegram, cable, report, records, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer disk or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which was, but is no longer in your possession, custody or control.

E. As used herein, the term "communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between and among two or more persons.

F. As used herein, the terms "identification", "identify", or "identity", when used in reference to: (a) a natural individual, requires you to state his or her full name, residential and business addresses and telephone number; (b) a corporation, requires you to state the full corporate name and any and all names under which it does business, its state of incorporation, the address of its principal place of business, and the address of all of its offices in the State of Alabama; (c) a business, requires you to state the full name or style under which the business is conducted, its



business address or addresses, the type of business in which it is engaged, the geographic areas in which it conducts its business, and the identify of the person(s) who own, operate, and control the business; (d) a document, requires you to state the number, page and nature of the document (e.g., letter or memorandum), its title, its date, the name(s) of its authors and recipients, and its present location and custodian; (e) a communication, requires you to, if any part of the communication was written, identify the document(s) which refer to or evidence the communication, and, to the extent the communication was non-written, to identify the person(s) participating in the communication and to state the date, manner, place and substance of the communication.

G. As used herein, the word "or" appearing in an interrogatory should not be read so as to eliminate any part of the interrogatory, but, whenever applicable, it should have the same meaning as the word "and".

H. As used herein the singular should include the plural and any plural should separately include each of several singulars.

I. When directed to more than one party, these interrogatories should be answered separately by each Party. When a distinction is made between any group of Defendants, group of Plaintiffs, group of third parties, or any combination thereof, this distinction or separation should be clearly stated.

J. These interrogatories are to be answered by each party, under oath, with his or its signature duly notarized. Where a party is a business or corporation, the person answering these interrogatories must be appropriately authorized to make the answers and to bind the business or corporate party thereby.

#### **INTERROGATORIES**

1. Please state the full name, residential address and telephone number, occupation,

business address and telephone number, social security number and date of birth of the person answering these Interrogatories.

2. Please state the name, address and telephone number of each person, including experts, having any knowledge of relevant facts relating to the facts which are the basis of any and all claims asserted by Synovus Bank against these Defendants.

3. Please state the full name, current address, telephone number, qualifications, and present employment of each person who you expect to call as a witness including experts, at the trial of this case, the subject matter in which each witness is expected to testify, the substance of the facts and opinions to which each witness is expected to testify, and a summary of the grounds for each opinion expected to be expressed by such witness.

4. Describe in detail any and all communications you have had with any of the Defendants, or their representatives, or any other person or entity, regarding the matters described in the Complaint, including the Loan Agreement, meetings and the like, giving the date of said communications, the names of all persons involved in said communications, names and addresses of all persons who witnessed said communications, and the substance of said communications.

5. State specifically what information was furnished by Synovus Bank, to each expert and what information was gathered by each expert and from exactly what sources upon which such opinions will be rendered. As to any books or publications upon which such opinions are to be based, state the title, author, publisher and opinion of each such publication, together with the page

and paragraph utilized by the expert in the formation of any opinion or conclusion.

6. Identify each fact and document which supports or relates to your claims against these Defendants. Include in your response the source of such information, the source of any documents obtained, or the name and address of any such person from whom such information was obtained.

7. Please provide the name of each and every Synovus Bank employee(s) that was involved in the evaluation, approval, and handling of the loans to these Defendants.

8. State in detail how this Defendant is allegedly "in default" of the loan to Synovus Bank.

9. Describe in detail any and all communications you have had with any of the Defendants, their representatives or agents regarding alleged defaults of the loan, giving the date of said communications, the names of all persons involved in said communications, names and addresses of all persons who witnessed said communications, and the substance of said communications.

10. State the amount that you allege is currently owed to Synovus, and explain in detail how that figure was calculated.

#### **REQUESTS FOR PRODUCTION**

1. Each and every written instrument, document or memoranda of any type or nature

which evidences, describes, identifies or consists of any agreement between the Plaintiff and any Defendant whether contractual, consensual, statutory, or court or administratively required.

2. Each and every written instrument, document or memoranda of any type or nature reflecting, concerning, identifying or relating to your claims asserted against the Defendants. Such documents should include, but should not be limited to the following: contracts, agreements, receipts, bills of sale, statements, computer printouts, ledgers, canceled checks, tax returns, financial statements, memoranda of meetings, memoranda of telephone conversations, correspondence, e-mails, account summaries, and any and all other documents.

3. Each and every written instrument, document or memoranda of any type or nature reviewed, used or analyzed by any individual contemplated to be used as an expert witness in the trial of this matter.

4. Each and every written instrument, document or memoranda of any type or nature prepared by, authored or created by any individual contemplated to be used as an expert witness at any trial of this matter.

5. All publications authored within the last ten years by any individual contemplated to be used as an expert witness in this matter.

6. The resume or curriculum vitae of any individual contemplated to be used as an expert witness in this matter.

7. All communications and/or documents evidencing communications between the Plaintiff (or any agent and/or representative of the Plaintiff) and any of the Defendants (or any representative and/or agent of any Defendant). Such documents should include all written correspondence, emails, invoices, notes of conversations, recordings, etc.

8. All communications and/or documents evidencing communications (including emails) between Synovus Bank and any of the Defendants or any representative and/or agent of any Defendant relating to the Plash Island Resort project. Such documents should include all written correspondence, invoices, notes of conversations, recordings, etc.

9. Each and every written instrument, document or memoranda of any type or nature reflecting, concerning, identifying or relating to the guarantees allegedly signed by these Defendants.

10. Each and every written instrument, document or memoranda of any type or nature reflecting, concerning, identifying or relating to the underlying Loan to Plash Island Resort, LLC.

11. Any and all notes and/or record taken during meetings with any of the Defendants throughout the span of the Plash Island Resort project beginning with the initial meeting and continuing until the present.

12. Each and every written instrument, document or memoranda of any type or nature that was reviewed by you and/or provided to you by any of the Defendants prior to approving the Loan and/or the execution of the alleged guarantees by these Defendants.

13. Copies of any and all exhibits, blow-up exhibits, and/or visual aids you plan to use or introduce at the trial of this case.

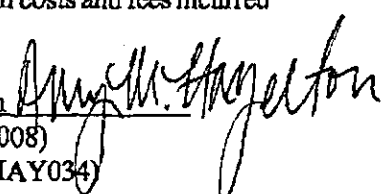
14. Copies or transcripts of any statement(s) given by any party or any agent of any party to this case which relates in any way to the subject matter of this case.

15. Copies of any and all documents within your possession that involve or relate to in any way the Plash Island Resort project.

16. Copies of any appraisals that have been completed on the Plash Island Resort, or any other real property claimed at any time as collateral for the debts in question.

17. Copies of any checks, receipts, invoices, account statements or the like reflecting any and all payments made on the underlying Loan made the basis of this lawsuit.

18. All attorney fee statements, bills and/or invoices reflecting all costs and fees incurred to date.

  
/s/ Amy M. Hazleton  
Lee R. Benton (BEN008)  
Amy M. Hazleton (MAY034)  
Attorney for Defendants

OF COUNSEL:  
BENTON & CENTENO, LLP  
2019 Third Avenue North  
Birmingham, Alabama 35203  
Phone: 205-278-8000  
Fax: 205-278-8008  
[lbenton@bcattys.com](mailto:lbenton@bcattys.com)  
[ahazleton@bcattys.com](mailto:ahazleton@bcattys.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Discovery by electronic transmission and/or by first class mail to the following on this the 2<sup>nd</sup> day of September, 2010:

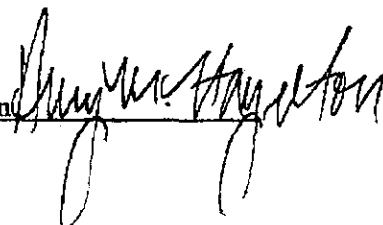
Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
BURR & FORMAN, LLP  
420 North 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
*Attorneys for Plaintiff*

Brian R. Walding, Esq.  
Donna Knotts Byrd, Esq.  
WALDING, LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
*Attorney for Plaintiff*

R. Bruce Barze, Jr.  
Amy Davis Adams  
Balch & Bingham, LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
*Attorneys for Donna S. Marcrum, executrix of the Estate of Gary L. Marcrum and Marcrum Development, LLC*

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23<sup>rd</sup> Avenue  
Gulf Shores, Alabama 36542

/s/ Amy M. Hazelton  
Of Counsel



SEP - 2 2010

ANNABAMA  
TY, ALA MARIE ADAMS  
Clerk

**SYNOVUS BANK,**

**Plaintiff,**

**V.**

**PLASH ISLAND RESORT, LLC, an  
Alabama Limited Liability Company, et al.,**

**Defendant.**

**CV-2010-902180.00**

**)(consolidated with CV-2010-902186)**

COME NOW Defendants, Keith Rotenberry, Lewis M. Lockhart, Richard D. Rowe, Nikolaos Manakides, Rickey L. Lockhart, William R. Ivey, Michael W. McCain, Christopher Andrew Yarborough, Alan Howard, Curtis Harper and Clark Parker, separately and severally, and file their Answer to the Complaints in the above-captioned, consolidated matter as follows:

### AFFIRMATIVE DEFENSES

**Defendants deny damages as alleged.**

**Defendants aver that the Plaintiff has failed to mitigate its damages.**

**Defendants allege that Plaintiff has failed to state a claim upon which relief may be granted.**

G:\wpusers\LRB\Howard, Alan C. - 3215-001\Synovus Bank CV-10-902180b-answer.wpd



Plaintiff caused the damages as alleged in the Complaint, or otherwise prevented or hindered performance.

**Fifth Affirmative Defense**

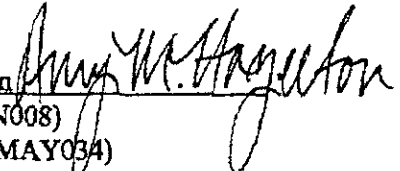
Defendants plead failure of cooperation.

**Sixth Affirmative Defense**

Defendants reserve the right to assert additional defenses as they become available throughout discovery.

**Jury Trial**

Defendants demand a trial by jury.

  
/s/ Amy M. Hazelton  
Lee R. Benton (BEN008)  
Amy M. Hazelton (MAY034)  
Attorney for Defendants

OF COUNSEL:  
BENTON & CENTENO, LLP  
2019 Third Avenue North  
Birmingham, Alabama 35203  
(205) 278-8000 Telephone  
(205) 278-8008 Facsimile  
[lbenton@bcattys.com](mailto:lbenton@bcattys.com)  
[ahazelton@bcattys.com](mailto:ahazelton@bcattys.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing pleading by electronic transmission or by first class mail to the following on this the 2<sup>nd</sup> day of September, 2010:

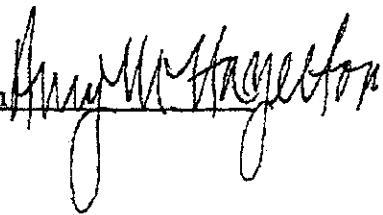
Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
BURR & FORMAN, LLP  
420 North 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
*Attorneys for Plaintiff*

Brian R. Walding, Esq.  
Donna Knotts Byrd, Esq.  
WALDING, LLC  
505 20<sup>th</sup> Street North, Suite 620  
Birmingham, Alabama 35203  
*Attorney for Plaintiff*

R. Bruce Barze, Jr.  
Amy Davis Adams  
Balch & Bingham, LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
*Attorneys for Donna S. Marcum, executrix of the Estate of Gary L. Marcum and Marcum Development, LLC*

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23<sup>rd</sup> Avenue  
Gulf Shores, Alabama 36542

/s/ Amy M. Hazelton  
Of Counsel





ELECTRONICALLY FILED  
9/21/2010 11:58 AM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION**

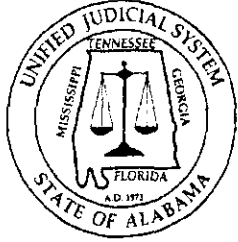
SYNOVUS BANK,	)	
Plaintiffs,	)	
	)	
V.	)	CV-2010-902180.00-NGS
	)	
PLASH ISLAND RESORT LLC,	)	
ROTENBERRY KEITH,	)	
LOCKHART LEWIS M.,	)	
ROWE RICHARD D. ET AL,	)	
Defendants.	)	

**ORDER**

The Plaintiff's Request for Assignment to the Commercial Litigation Docket is hereby set for a hearing before the undersigned in Room 350 of the Jefferson County Courthouse on **October 7, 2010 at 11:15 a.m.**

**DONE this 21<sup>st</sup> day of September, 2010.**

/s/ NICOLE GORDON STILL  
CIRCUIT JUDGE



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

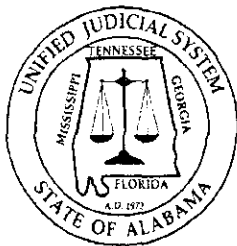
SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL

01-CV-2010-902180.00

*The following matter was FILED on 9/21/2010 11:58:36 AM*

Notice Date: 9/21/2010 11:58:36 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

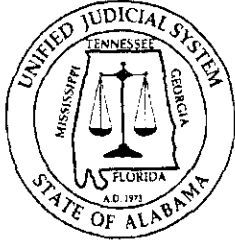
The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

**01-CV-2010-902180.00**

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

**SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL**  
**01-CV-2010-902180.00**

The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/21/2010 11:58:36 AM

Notice Date: 9/21/2010 11:58:36 AM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



ELECTRONICALLY FILED  
9/28/2010 1:35 PM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2010-902180
	)	
PLASH ISLAND RESORT, LLC, et al.,	)	
	)	
Defendants.	)	
	)	

**MOTION TO STAY**

COMES NOW Defendant Donna S. Marcum, as personal representative of the Estate of Gary L. Marcum, Sr. (the "Personal Representative"), and requests that this honorable Court stay the proceedings against the Personal Representative in Case No. 2010-902180, currently before this Court, pending a final disposition of the Report of Insolvent Estate filed by the Defendant in the Shelby County, Alabama Probate Court. As grounds for this Motion to Stay, the Personal Representative states as follows:

1. On June 21, 2010, the Plaintiff filed its Complaint, seeking payment of a \$5,400,000.00 promissory note by Plash Island Resort, LLC and various guarantors of the promissory note, including the Personal Representative.
2. The Estate is currently being administered in Shelby County Probate Court, Case NO. PR 2009-000359.
3. On September 24, 2010, the Personal Representative filed a Report of Insolvent Estate with the Shelby County Probate Court pursuant to Ala. Code § 43-2-701 (1975). A filed-stamped copy of the Report of Insolvent Estate is attached hereto as Exhibit "A".

4. Pursuant to Ala. Code § 43-2-810, "during the progress of any civil action against an executor or administrator, he may show that such estate has been reported insolvent; and, upon such showing, the case must be continued until the final disposition of such report."

5. The Personal Representative therefore respectfully requests that this honorable Court stay the instant proceeding against her until the Shelby County Probate Court makes the final disposition of the Report of Insolvent Estate.

Given under our hands and seals this the 28th day of September, 2010.

/s Amy D. Adams

One of the Attorneys for Defendant,  
Balch & Bingham LLP

**OF COUNSEL:**

Amy D. Adams (DAV145)  
R. Bruce Barze, Jr. (BAR079)  
BALCH & BINGHAM LLP  
Post Office Box 306  
Birmingham, AL 35201-0306  
Telephone: (205) 251-8100  
Facsimile: (205) 226-8798

**CERTIFICATE OF SERVICE**

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing and/or that a copy of the foregoing has been served upon the following by placing a copy of same in the United States mail, properly addressed and postage prepaid, on this the 28th day of September 2010:

Attorney for Synovus Bank  
Joe A. Joseph, Esq.  
Damon P. Denney, Esq.  
Clifton C. Mosteller, Esq.  
Burr & Forman, LLP  
420 North 20th Street  
Suite 3400  
Birmingham, AL 35203  
[jjoseph@burr.com](mailto:jjoseph@burr.com)

Attorney for Keith Rotenberry, Lewis M. Lockhart, Richard D. Rowe, Nikolaos Manakides, Rickey L. Lockhart, William R. Ivey, and Michael W. McCain  
Amy M. Hazelton  
Benton & Centeno, LLP  
2019 Third Avenue North  
Birmingham, Alabama 35203

Plash Island Resort, LLC  
c/o Joseph F. Yarborough, Jr.  
396 West 23rd Avenue  
Gulf Shores, AL 36542

Christopher Andrew Yarborough  
345 Olde Park Court  
Gulf Shores, AL 36542-5714

Marcum Development, L.L.C.  
c/o Debra Marcum Massey  
1601 Wingfield Drive  
Birmingham, AL 35242

/s/ Amy D. Adams  
Of Counsel

**EXHIBIT "A"**

RECEIVED

SEP 24 2010

James W. Fuhrmeister  
Judge of Probate

IN THE MATTER OF THE ESTATE OF } PROBATE COURT OF  
: SHELBY COUNTY, ALABAMA  
GARY L. MARCRUM, SR., Deceased } CASE NO. PR 2009-000359

## REPORT OF INSOLVENT ESTATE

Comes the Petitioner, DONNA S. MARCRUM ("Representative"), as personal representative of the Estate of GARY L. MARCRUM, SR., deceased (the "Estate"), and pursuant to Ala. Code § 43-2-702, submits this Report of Insolvent Estate:

1. Representative is of the opinion, to the best of her knowledge and belief that the real and personal property of the Estate is insufficient to pay the debts of the Estate and is therefore insolvent.

2. Pursuant to Ala. Code § 43-2-702, Representative files herewith the following statements which are attached hereto and incorporated by reference herein:

**Statement A**, which is a statement of all the goods and chattels, evidences of debt, and other personal property of the decedent, with the estimated value of each, and the amount of money belonging to the Estate.

**Statement B**, which is a full statement of the real property of the decedent, or any interest therein, and the estimated value thereof.

**Statement C**, which is a full statement of all claims against the Estate known to Representative, the character and amount of each claim, and the name and residence of each creditor, if known.

3. The decedent's spouse, Donna S. Marcrum, or a trust for the benefit of the decedent's spouse, is the only heir or distributee of the Estate. Representative resides at 604 Queens Gate, Birmingham, AL 35242-7221, is over the age of 19 and is of sound mind.

4. The decedent owned a 50% membership interest in Plash Island One, LLC and a 33.34% membership interest in Plash Island Resort, LLC.

(a) Plash Island One, LLC defaulted on (i) a \$9,600,000 loan by The Bank of Pensacola, (ii) a \$3,074,847 loan by First Commercial Bank, and (iii) a \$2,500,000 loan by First Community Bank. The collateral for the loans is certain real property in Baldwin County, Alabama. Upon information and belief, the value of the collateral is substantially less than the outstanding loan indebtedness. The payment of all three loans was guaranteed by the decedent. The Bank of Pensacola and First Commercial Bank have merged into Synovus Bank ("Synovus"). A lawsuit was filed by Synovus against the Estate and others in the Circuit Court of Baldwin County, Alabama (Case No. CV-2010-901333) for a

judgment in the amount of the loan indebtedness and related obligations. The lawsuit is pending.

(b) Plash Island Resort, LLC defaulted on (i) a \$450,000 loan by First Commercial Bank and (ii) a \$5,400,000 loan by Coastal Bank & Trust. The collateral for the loans is certain real property in Baldwin County, Alabama. Upon information and belief, value of the collateral is less than the outstanding loan indebtedness. The payment of the loans was guaranteed by the decedent. First Commercial Bank and Coastal Bank & Trust have merged into Synovus. A lawsuit was filed by Synovus against the Estate and others in Circuit Court of Shelby County, Alabama (Case No. CV-2010-902180.00) for a judgment in the amount of the loan indebtedness and related obligations. The lawsuit is pending.


5. The majority of the assets of the Estate are restricted limited partnership interests, the value of which is impaired by limited marketability, restrictions on transfer, and the lack of control.

6. Simultaneously with this filing, the decedent's spouse has petitioned this court for the homestead exemption, family allowance, and personal property exemption, which total \$15,500 (the "Exemptions"). The Exemptions, the funeral expenses and the charges of administration, including attorney's fees and a reasonable Personal Representative fee, have priority over any claims against the Estate.

7. The assets of the Estate are insufficient to pay the creditors of the Estate.



WHEREFORE, pursuant to Ala. Code § 43-2-704, Representative prays that the Court will set this Report of Insolvent Estate for hearing not less than 30 nor more than 60 days from the date hereof, hear and determine the same, give such notice of same as is required by law, and grant to Representative such other or different relief to which Representative may be entitled.

  
DONNA S. MARCUM, Representative

**Attorneys for the Petitioner:**

Frank C. Ellis, Jr.  
Wallace, Ellis, Fowler & Head  
113 North Main Street  
Columbiana, Alabama 35051  
(205) 669-6783

Amy D. Adams  
W. Clark Watson  
BALCH & BINGHAM LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
(205) 251-8100

---

VERIFICATION

STATE OF ALABAMA

Jefferson COUNTY

}  
:  
}

Before me, a notary public in and for said county in said state, personally appeared DONNA S. MARCRUM, who being first duly sworn, makes oath that she has read the foregoing petition and, to the best of her information, knowledge and belief, the information contained herein is correct.

Subscribed and sworn to before me this the 23<sup>rd</sup> day of September, 2010.

[SEAL]

Cynthia G. Huxton

Notary Public

My Commission Expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: July 15, 2012  
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS

**STATEMENT A**

<b><u>Stocks and Bonds</u><sup>1</sup></b>	<b><u>Estimated Value</u></b>
1,000 Shares of Bran Company, Inc.	\$52,000
1,000 Shares of DMM Corporation	\$4,000
200 Shares of Marcrum Management Company	\$630,000 <sup>2</sup>
<b><u>Mortgages, Notes, Cash</u></b>	
Estate Accounts <sup>3</sup>	
First Commercial Bank	\$5,296.61
ServisFirst Bank	\$28,953.61
Secured Promissory Note, Delphi Affordable Housing, Inc.	\$47,404
Unsecured Note Receivable from Marcrum Development, LLC. (Face value of note is \$192,458 but Marcrum Development, LLC is insolvent and has no means to pay the debt.)	\$0
Unsecured Note Receivable from Resco Management Inc.	\$579,770
Unsecured Note Receivable from KWMB Investments, LLC d/b/a Forest Hills Village. (Face value of note is \$17,000 but KWMB Investments, LLC is insolvent and has no means to pay the debt)	\$0

<sup>1</sup> At the time of his death, the decedent owned the following brokerage accounts with his wife as joint tenants with right of survivorship; Account No. FJB-101532 (approximate value \$1,094,026), Account No. FJB-000965 (approximate value \$237,847), and Account No. FJB-101532 (approximate value \$1,461) (the "Accounts"). The Accounts are not included as assets of the Estate because (i) the Accounts automatically passed to the decedent's wife upon his death by operation of law, and (ii) the Accounts were pledged as collateral for loans owed to Synovus Bank. Synovus Bank has exercised its right of Exclusive Control and liquidated the Accounts in partial satisfaction of the indebtedness owed to it.

<sup>2</sup> The only tangible asset of Marcrum Management Company is its 100% ownership of Resco, Inc., the approximate value of which is \$286,195. The other assets of Marcrum Management Company are property management contracts. The continuation of the term of the contracts is dependent in large measure upon the ongoing business relationship between the personnel of Marcrum Management Company and the property owners. In addition, the contracts may be cancelled upon sixty days notice. Marcrum Management Company is indebted to Donna Marcrum in the amount of \$450,000, and Resco Management, Inc. is indebted to the Estate in the amount of \$579,000.

<sup>3</sup> The Estate Accounts consist primarily of funds received from (i) the satisfaction of two promissory notes paid by Delphi Affordable Housing, Inc., and (ii) the sale of the decedent's vehicle for \$11,000.

**Restricted Partnership and Limited Liability Company Interests**

42% Limited Partnership Interest in Cleburne Plaza, Phase 1, Ltd.	\$810,000
29.625% Limited Partnership Interest in Greenbriar Apartments of Hattiesburg, Ltd.	\$450,000
7.7% General Partnership Interest in Hunters Glen, Ltd.	\$0
42% Limited Partnership Interest in M&A Apartments, Phase I, Ltd.	\$265,000
42% Limited Partnership Interest in M&A Apartments, Phase II, Ltd.	\$318,000
10% General Partnership Interest in Panorama East, Ltd.	\$264,000
8.572% Limited Partnership Interest in Panorama East, Ltd.	\$165,000
2% General Partnership Interest in Pine Ridge Courts, Ltd.	\$5,000
5.97% Limited Partnership Interest in Pine Ridge Courts, Ltd.	\$11,000
99% Limited Partnership Interest in Pinebrook Apartments, Ltd.	\$57,000
79% Membership Interest in Raintree-Ala., LLC	\$244,000
9% Limited Partnership Interest in Rio Vista Apartments, Ltd.	\$96,000
49.5% Limited Partnership Interest in The Villas of Parkhaven, Ltd.	\$565,000
5% General Partnership Interest in Villa Madres Ltd.	\$2,000

27.14% Limited Partnership Interest in Villa Madres Ltd.	\$8,000
50% Membership Interest in Plash Island One, LLC	\$0
33.34% Membership Interest in Plash Island Resort, LLC	\$0
24% Limited Partnership Interest in Continental Housing Partners, Ltd.	\$129,043
33.34% Membership Interest in Marcrum Development, LLC	\$0
100% Membership Interest in GLM Properties, LLC	\$15,585
100% Membership Interest in DSM Apartments, LLC	\$62,000
<b><u>TOTAL</u></b>	<b>\$4,814,052</b>

**STATEMENT B**

The Estate owns no real property. The real property owned by Gary Marcum, Sr. was owned as joint tenants with right of survivorship with Donna S. Marcum.

**STATEMENT C**

<b><u>Debt</u></b>	<b><u>Amount</u></b>
Boat Loan - Bank of America	\$611,495
Florida Home Mortgage - America's Servicing Co.	\$971,988
Alabama Home Mortgage - Thornburg Mortgage	\$711,106
Personal Loan - Debra Massey	\$200,000
Personal Loan - Gary Lee Marcrum, Jr.	\$200,000
Personal Loan - DNL Investments, L.L.C.	\$300,000
Personal Loan - First Commercial Bank	\$0 <sup>4</sup>
<b><u>Personal Guarantees</u></b>	
*Loan to Plash Island One, LLC - The Bank of Pensacola Personal Guaranty by Gary Marcrum Currently in Default/Inadequate security	\$10,025,763 <sup>5</sup>
*Loan to Plash Island One, LLC - First Commercial Bank Personal Guaranty by Gary Marcrum Currently in Default/Inadequate security	\$3,081,749 <sup>6</sup>
*Loan to Plash Island One, LLC - First Community Bank Personal Guaranty by Gary Marcrum Currently in Default/Inadequate security	\$2,500,000
*Loan to Plash Island Resort LLC - First Commercial Bank Personal Guaranty by Gary Marcrum Currently in Default/Inadequate security	\$450,000
*Loan to Plash Island Resort LLC - Coastal Bank & Trust Personal Guaranty by Gary Marcrum Currently in Default/Inadequate security	\$5,382,229 <sup>7</sup>

---

<sup>4</sup> At the time of the decedent's death, he owed approximately \$676,134 to First Commercial Bank. This obligation was completely satisfied from the Accounts seized by Synovus. See footnote 1.

<sup>5</sup> Current Balance as of August 6, 2010; per diem interest is \$1,568.30.

<sup>6</sup> Current Balance as of August 6, 2010; per diem interest is \$538.58.

<sup>7</sup> Approximate Value as of September 3, 2010; per diem interest is \$795.20.

Loan to Villas of Parkhaven, Ltd. – Artesia Mortgage Capital Corp. Personal Guaranty	\$12,000,000 <sup>8</sup>
Loan to Pinebrook Apartments, Ltd. – JPMorgan Chase Bank, N.A. Personal Guaranty	\$5,100,000 <sup>9</sup>

**Contingent Claims for Contribution**

Claim by Joseph Story, co-guarantor of Plash Island One, LLC Loans, for Estate's share of Loans	Unknown
--	---------

Claim by Samuel Mavar, Jr., co-guarantor of Plash Island One, LLC Loans, for Estate's share of Loans	Unknown
---	---------

These two claims are by co-guarantors of the Plash Loans

<b><u>TOTAL</u></b>	<b>\$41,534,330 (see note below)</b>
---------------------	--------------------------------------

\* The Plash Island One, LLC loans and the Plash Island Resort, LLC loan (the "Plash Loans") are part of a failed real estate development in Baldwin County, Alabama. The Plash Loans are non-performing and both are involved in litigation. As indicated, Gary Marcum personally guaranteed these loans for their entire amounts. His Estate may be liable for the entire amount of these loans. The loans are secured by undeveloped real estate, but the sale of the properties will not satisfy these obligations. Even if the Estate is only liable for the decedent's pro rata share of the Plash Loans, his share of the obligation totals \$9,990,841, which still exceeds the total estimated value of the decedent's estate.

---

<sup>8</sup> The Villas of Parkhaven, Ltd. is current on this obligation. The real estate securing the loan is believed to be worth approximately the amount of the mortgage indebtedness.

<sup>9</sup> Pinebrook Apartments, Ltd. is current on this obligation. The real estate securing the loan is believed to be worth approximately the amount of the mortgage indebtedness.



**NOTE ON VALUATIONS**

The estimated valuations included in this report have been prepared solely for the purpose of complying with Alabama Code §43-2-702. Such values represent the estimates and best judgment of the Personal Representative of the Estate based upon information and professional opinions formulated by the accountant for the Estate. The actual fair market value of the assets of the Estate may be more or less than the amounts described in this report, based upon, among other things, the criteria employed to value each such asset, the market conditions at the time of the sale of any such assets, control or lack of control associated with any entity ownership interest, restrictions upon the transfer of certain of the assets and the then-existing value of any real estate or other assets that are owned by an entity in which the Estate may have an interest. This disclaimer applies to all of the asset valuations contained in this report.

<b>IN THE MATTER OF THE ESTATE OF</b>	<b>}</b>	<b>PROBATE COURT OF</b>
<b>GARY L. MARCRUM, SR.,</b>	<b>:</b>	<b>SHELBY COUNTY, ALABAMA</b>
<b>DECEASED</b>	<b>}</b>	<b>CASE NO. PR 2009-000359</b>


**PETITION TO SET ASIDE FAMILY ALLOWANCE**

Comes the petitioner, **DONNA S. MARCRUM** ("Petitioner"), and shows the Court the following:

1. **GARY L. MARCRUM, SR.** (the "Decedent") died testate on or about June 13, 2009. At the time of his death, the Decedent was domiciled in Shelby County, Alabama, and his estate is now pending in this Court, which granted Letters Testamentary on the Decedent's estate to **DONNA S. MARCRUM**, as Personal Representative, on June 16, 2009.

2. Petitioner is the surviving spouse of the Decedent, and is entitled to have set aside to her such property comprising the Decedent's estate as shall be necessary to satisfy the Family Allowance in the amount provided by Ala. Code §43-8-112 and Ala. Code §43-8-113, respectively.

WHEREFORE, Petitioner requests that *this Court make and enter an Order declaring that the property of the Decedent subject to administration in this Court has a value in excess of the aggregate value of the Family Allowance, and identifying which property of the Decedent's estate shall be set aside to the Petitioner as Family Allowance, and what portion shall be set aside for each of them; and Petitioner further requests such other orders and decrees as may be necessary to vest title to such property in the Petitioner.* This petition is deemed to be verified pursuant to Ala. Code §43-8-22.

  
DONNA S. MARCRUM  
604 Queens Gate  
Birmingham, Alabama 35242-7221

**Attorneys for the Petitioner:**

Frank C. Ellis, Jr.  
Wallace, Ellis, Fowler & Head  
113 North Main Street  
Columbiana, Alabama 35051  
(205) 669-6783

Amy D. Adams  
BALCH & BINGHAM LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
(205) 251-8100

<b>IN THE MATTER OF THE ESTATE OF</b>	<b>}</b>	<b>PROBATE COURT OF</b>
<b>GARY L. MARCRUM, SR.,</b>	<b>:</b>	<b>SHELBY COUNTY, ALABAMA</b>
<b>DECEASED</b>	<b>}</b>	<b>CASE NO. PR 2009-000359</b>

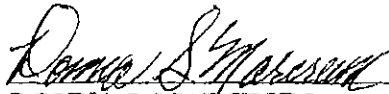
**PETITION TO SET ASIDE HOMESTEAD AND  
EXEMPT PROPERTY ALLOWANCES**

Comes the petitioner, **DONNA S. MARCRUM** ("Petitioner"), and shows the Court the following:

1. **GARY L. MARCRUM, SR.** (the "Decedent") died testate on or about June 13, 2009. At the time of said death, the Decedent was domiciled in Shelby County, Alabama, and his estate is now pending in this Court, which granted Letters Testamentary on the Decedent's estate to **DONNA S. MARCRUM**, as Personal Representative, on June 16, 2009.

2. Petitioner is the surviving spouse of the Decedent and is entitled to have set aside to her such property comprising the Decedent's estate as shall be necessary to satisfy the Homestead Allowance and the Exempt Property Allowance in the amounts provided by Ala. Code §43-8-110, Ala. Code §43-8-111 and Ala. Code §43-8-113, respectively.

WHEREFORE, Petitioner requests that this Court make and enter an Order declaring that the property of the Decedent subject to administration in this Court has a value in excess of the aggregate value of the Homestead Allowance and Exempt Property Allowance, and identifying which property of the Decedent's estate shall be set aside to the Petitioner as Homestead Allowance and Exempt Property Allowance, and Petitioner further requests such other orders and decrees as may be necessary to vest title to such property in the Petitioner. This petition is deemed to be verified pursuant to Ala. Code §43-8-22.



DONNA S. MARCRUM

604 Queens Gate

Birmingham, Alabama 35242-7221

**Attorneys for the Petitioner:**

Frank C. Ellis, Jr.  
Wallace, Ellis, Fowler & Head  
113 North Main Street  
Columbiana, Alabama 35051  
(205) 669-6783

Amy D. Adams  
BALCH & BINGHAM LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, Alabama 35203  
(205) 251-8100

<b>STATE OF ALABAMA</b> Unified Judicial System		Revised 3/5/08	Case  ELECTRONICALLY FILED 9/28/2010 1:35 PM CV-2010-902180.00 CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA ANNE-MARIE ADAMS, CLERK	
01-JEFFERSON - BIRMINGHAM		<input type="checkbox"/> District Court <input checked="" type="checkbox"/> Circuit Court		CV2010902180
SYNOVUS BANK V. PLASH ISLAND RESORT LLC ET AL		<b>CIVIL MOTION COVER SHEET</b> Name of Filing Party: D010 - ESTATE OF GARY L. MARCRUM, S		
Name, Address, and Telephone No. of Attorney or Party, If Not Represented. AMY DAVIS ADAMS 1901 SIXTH AVENUE NORTH, SUITE 2600 BIRMINGHAM, AL 35203 Attorney Bar No.: DAV145		<input type="checkbox"/> Oral Arguments Requested		
<b>TYPE OF MOTION</b>				
<b>Motions Requiring Fee</b>		<b>Motions Not Requiring Fee</b>		
<input type="checkbox"/> Default Judgment (\$50.00) Joinder in Other Party's Dispositive Motion (i.e. <input type="checkbox"/> Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment(\$50.00) Renewed Dispositive Motion(Summary Judgment, <input type="checkbox"/> Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment pursuant to Rule 56(\$50.00) <input type="checkbox"/> Motion to Intervene (\$297.00) <input type="checkbox"/> Other _____ pursuant to Rule _____ (\$50.00)  *Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees. <input type="checkbox"/> Local Court Costs \$ _____		<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during Trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input checked="" type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input type="checkbox"/> Other _____ pursuant to Rule _____ (Subject to Filing Fee)		
Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §8-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees) <input type="checkbox"/>		Date: 9/28/2010 1:33:12 PM		Signature of Attorney or Party: /s/ AMY DAVIS ADAMS

\*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\*Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: AMY DAVIS ADAMS  
aadams@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: DENNEY DAMON PATRICK  
420 20TH ST N STE 3400  
BIRMINGHAM, AL 35203

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov





## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: PLASH ISLAND RESORT LLC (PRO SE)  
C/O JOSEPH F YARBOROUGH  
374 WEST CANAL DRIVE  
GULF SHORES, AL 36542

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A

MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: JOSEPH JOE ALAN  
jjoseph@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: MOSTELLER CLIFTON CHARLES  
clifton.mosteller@burr.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

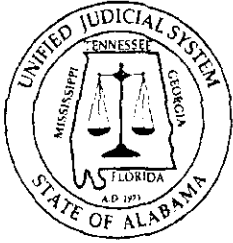
D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BENTON LEE RIMES  
lbenton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

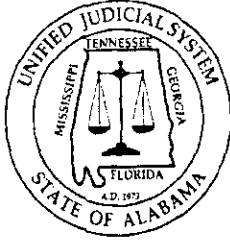
D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: HAZELTON AMY MAY  
ahazelton@bcattys.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



## AlaFile E-Notice

01-CV-2010-902180.00

Judge: NICOLE GORDON STILL

To: BARZE RONALD BRUCE JR  
bbarze@balch.com

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SYNOVUS BANK v. PLASH ISLAND RESORT LLC ET AL  
01-CV-2010-902180.00

The following matter was FILED on 9/28/2010 1:36:00 PM

D010 ESTATE OF GARY L. MARCRUM, SR. DONNA S. MARCRUM, A  
MOTION TO STAY

[Attorney: ADAMS AMY DAVIS]

Notice Date: 9/28/2010 1:36:00 PM

ANNE-MARIE ADAMS  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov



ELECTRONICALLY FILED  
10/4/2010 4:40 PM  
CV-2010-902180.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

<b>SYNOVUS BANK,</b>	)	
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	
	)	<b>CV-2010-902180.00</b>
<b>PLASH ISLAND RESORT, LLC, an</b>	)	<b>(consolidated with CV-2010-902186)</b>
<b>Alabama Limited Liability Company, et al.,</b>	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFF SYNOVUS BANK'S PRELIMINARY OBJECTIONS TO  
DEFENDANTS' INTERROGATORIES AND REQUEST FOR PRODUCTION**

Plaintiff Synovus Bank ("Synovus") hereby serves its preliminary objections (the "Preliminary Objections") to the Defendants', Keith Rotenberry, Lewis M. Lockhart, Richard D. Rowe, Nikolaos Manakides, Rickey L. Lockhart, William R. Ivey, Michael W. McCain, Christopher Andrew Yarbrough, Alan Howard, Curtis Harper and Clark Parker (collectively, the "Defendants"), Interrogatories and Request for Production (collectively, the "Discovery Requests").

**Objections to Definitions**

1. Synovus objects to the Definitions insofar as they seek to impose discovery obligations exceeding the requirements of the Alabama Rules of Civil Procedure and applicable law.

2. Synovus objects to the Definitions insofar as they would require information not within the possession, custody or control of Synovus.

**General Objections**

1. Synovus' objections to Defendants' Discovery Requests are made without waiver of, or prejudice to, any additional objections Synovus may hereafter make. All such objections are hereby expressly preserved, as is the right to move for protective order. Synovus reserves all

objections as to admissibility at trial of any information or documents provided in response to any discovery requests made upon Synovus by the Defendants.

2. Synovus submits these Preliminary Objections without conceding the relevancy or materiality of the subject matter of the Discovery Requests and without prejudice as to all objections to the admissibility of any response to the Discovery Requests. Any responses given herein and which may yet be made, in connection with the Discovery Requests are made without waiving, or intending to waive, the right to object on the grounds of incompetency, privilege, relevancy or materiality (or any other grounds) or to the use of any documents or information provided in response to the Discovery Requests, in any subsequent proceeding in this action or any other action. Synovus similarly reserves the right to object on any and all grounds, at any time, to subsequent document requests, or any other discovery procedures, involving or relating to the subject matter of the Discovery Requests.

3. Synovus objects to each and every request for production to the extent that the information and documentation called for, if any, was obtained and prepared in anticipation of litigation or for trial and that Defendants have made no showing that it has a substantial need for the materials in preparation of its case, and that it is unable, without undue hardship, to obtain the substantial equivalent of the materials by other means. Synovus further objects to each and every request for production to the extent that the information called for, if any, is privileged and not discoverable under Rule 26 of the Alabama Rules of Civil Procedure, other Alabama Rules of Civil Procedure, Alabama Rules of Evidence or applicable law.

4. Synovus objects to each and every request for production to the extent that the information and documentation called for is protected from discovery by the attorney/client privilege, work product doctrine or other applicable privileges or immunities.



5. Synovus objects to the Discovery Requests insofar as they seek documents or information not relevant to any claim or defense in this action; or insofar as they seek documents or information which is not reasonably calculated to lead to the discovery of relevant evidence; and to the extent that the Discovery Requests are overly broad, ambiguous and/or would impose an unreasonable and undue burden and expense on Synovus.

6. Synovus objects to the Discovery Requests insofar as they purport to seek documents created subsequent to the commencement of this lawsuit.

7. Synovus objects to each and every request for production to the extent that any request for production seeks information or documentation not in Synovus' possession, custody or control.

8. Synovus objects to each and every request for production to the extent that any such request for production seeks discovery that is unreasonably cumulative or duplicative or is information or documentation that is easily available to Plaintiffs and the burden on Plaintiffs to obtain the requested information or documentation is no greater than the burden on Synovus.

9. Synovus objects to each and every request for production to the extent that any request for production is overly broad, vague and ambiguous, oppressive, unduly burdensome, expensive, or beyond the permissible scope of discovery under the Alabama Rules of Civil Procedure, Alabama Rules of Evidence or applicable law.

10. Synovus reserves the right to supplement any responses to these requests for production or any other discovery requests upon completion of discovery.

11. In responding to the Discovery Requests, Synovus has or will provide responses based on documents and information that are presently available. Synovus, without assuming any obligation to do so, expressly reserve the right, at any time, to revise, correct, or add to any

responses to the requests for production if additional documents or information become available. Synovus expressly reserves the right to rely, at any time, on subsequently discovered documents or information, which they are currently unaware of or which are unintentionally omitted from this response.

12. Synovus reserves the right to object to the competency, relevancy, materiality, admissibility and privilege of any documents or information requested in the Defendants' Discovery Requests.

13. Synovus reserves the right to object on any ground to the use of any documents produced, or the subject matter thereof, in any subsequent proceeding in, or the trial of, this or any other action.

14. Synovus reserves the right to replace any document produced in response to the Discovery Requests that contains private identifying information such as social security numbers or similar information that are inadvertently produced to the Defendants with redacted version of the same document in response to these Discovery Requests.

The Preliminary Objections contained herein are propounded upon the Defendants in connection with Synovus' initial responses to the Defendants' Discovery Requests. **TO THE EXTENT RESSPONSES TO THE DISCOVERY REQUESTS ARE NOT PROVIDED WITH THESE PRELIMINARY OBJECTIONS, BY AGREEMENT OF THE PARTIES, THEY WILL BE PROVIDED AT A LATER AGREED UPON DATE. SAID RESPONSES WILL BE SUBJECT TO THESE PRELIMINARY OBJECTIONS AND ANY OBJECTIONS CONTAINED THEREWITH.**

Respectfully submitted by,

/s/ Brian R. Walding  
Brian R. Walding (WAL177)

OF COUNSEL:  
Walding, LLC  
505 20<sup>th</sup> Street North  
Suite 620  
Birmingham, Alabama 35203  
(205) 307.5050  
(205) 307.5051 (facsimile)

/s/ Joe A. Joseph  
Joe A. Joseph (JOS004)  
Damon P. Denney (DEN019)  
Clifton C. Mosteller (MOS035)

OF COUNSEL:  
Burr & Forman LLP  
420 North 20th Street  
3400 Wachovia Tower  
Birmingham, Alabama 35203  
(205) 251.3000  
(205) 458.5100 (facsimile)

Attorneys for SYNOVUS BANK

**CERTIFICATE OF SERVICE**

I hereby certify that an original of the above and foregoing has been served upon the following counsel by placing an original of same in the U.S. Mail, first-class postage prepaid and properly addressed or via electronic mail or hand delivery to:

Amy M. Hazelton  
Benton and Centeno, LLP  
2019 Third Ave. North  
Birmingham, Alabama 35203

Lee R. Benton  
Benton and Centeno, LLP  
2019 Third Ave. North  
Birmingham, Alabama 35203

on this the 4<sup>th</sup> day of October, 2010.

/s/ Brian R. Walding  
Of Counsel